

**BEFORE THE FLORIDA
PUBLIC SERVICE COMMISSION**

IN RE: Application of)
LAKE UTILITY SERVICES, INC.)
for extension of water and)
wastewater service in)
Lake County, Florida.)
_____)

Docket No. 020907-WS

**CITY OF CLERMONT'S RESPONSE IN
OPPOSITION TO MOTION TO STRIKE**

The City of Clermont (hereafter, the "City"), by and through its undersigned counsel, hereby responds in opposition to the Motion to Strike filed by Lake Utility Services, Inc. (hereafter, "LUSI"), stating as follows:

1. On August 11, 2003, LUSI served its motion to strike, whereby it asks that all witnesses and exhibits listed in the City's Prehearing Statement be stricken and that the City not be allowed to introduce any witnesses or testimony at the scheduled September 9 and 10, 2003, hearing of this matter.

2. LUSI's proffered justification for its request is that the City failed to prefile its exhibits or the testimony of its listed witnesses in accordance with the schedule set forth by the January 15, 2003, Order Establishing Procedure, as amended. This, according to LUSI, acts to prejudice the Commission staff, the other intervenors and itself because of the short time remaining before the hearing and the inability of the parties to learn of the position the City intends to take on matters in issue during that time.

3. Respectfully, though the actual testimony of the listed individuals was not prefiled, LUSI's claim that it is unable to discern and evaluate the City's position on the issues at question in this matter because of that failure is disingenuous, at best. Commission staff, the other intervenors

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and LUSI have long known the City's position on the matters in issue and cannot forcefully claim to be prejudiced.

4. Moreover, as the parties and staff are aware, LUSI and the City have been, and continue to be, engaged in an on-going dialogue in an attempt to resolve their differences and settle the matter so that the City's objections can ultimately be withdrawn without the need to proceed to hearing. Similarly, the City's response to discovery propounded by LUSI has been stayed pending these settlement discussions. It was because of those extenuated settlement discussions and the desire to avoid needless expense both by the City, and ultimately, LUSI, who would be required to respond, that the City did not prefile any testimony or exhibits.

5. And, while the City is still confident that this matter will be resolved prior to hearing, it felt compelled to list witnesses and exhibits to support its position when filing its Prehearing Statement, in order to protect its interests.

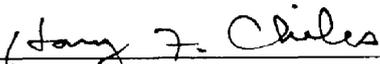
6. Further, while the referenced scheduling order, at one point, seems to require the pre-filing of witness testimony and exhibits, at another point in the order, the language is couched in discretionary terms ("Failure of a party to timely prefile exhibits and testimony from any witness in accordance with the foregoing requirements may bar admission of such exhibits and testimony." Order Establishing Procedure, January 15, 2003, at 3 (emphasis supplied)).

7. Though, in reality, the City expects that it will be necessary to call, at most, two of the listed witnesses, to completely foreclose the City from presenting its position by excluding all witnesses and testimony should this matter not resolve itself prior to the hearing, would be extremely prejudicial to the interests of the City.

WHEREFORE, based upon the foregoing points and good cause shown, the City

respectfully requests that LUSI's motion to strike be denied and that it be allowed to fully present its position, through both witnesses and exhibits, at the hearing of this matter.

Respectfully submitted,



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ATTORNEY FOR CITY OF CLERMONT,
PETITIONER

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by facsimile and U.S. Mail to MARTIN S. FRIEDMAN, ESQUIRE, Rose Sundstrom & Bentley, LLP, 650 N. Lake Boulevard, Suite 420, Altamonte Springs, Florida 32701; DONNA STINSON, ESQUIRE, Broad and Cassel, 215 S. Monroe Street, Suite 400, Post Office Drawer 11300, Tallahassee, Florida 32302; and ADRIENNE VINING, ESQUIRE, Division of Legal Services, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850 on this 14th day of August, 2003.



HARRY F. CHILES